

REFERENCE TITLE: criminal justice; budget reconciliation

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2861

Introduced by  
Representative Boone (with permission of committee on Rules)

AN ACT

AMENDING SECTIONS 12-284, 22-281 AND 38-810, ARIZONA REVISED STATUTES;  
RELATING TO COURT FEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 12-284, Arizona Revised Statutes, is amended to  
3 read:  
4 12-284. Fees  
5 A. Except as otherwise provided by law, the clerk of the superior  
6 court shall receive fees classified as follows:

7 Class	Description	Fee
8 A	Initial case filing fee	
9	Tax case	<del>\$115.00</del> 166.00
10	Filing complaint or petition	<del>115.00</del> 166.00
11	Filing intervenor	<del>115.00</del> 166.00
12	Additional plaintiffs	<del>115.00</del> 166.00
13	Filing foreign judgment	<del>115.00</del> 166.00
14	Ownership of real property becomes	
15	an issue plaintiff	<del>115.00</del> 166.00
16	Appellant	
17	(except under sections 12-1809 and 13-3602)	<del>115.00</del> 166.00
18	Change of venue to this county	<del>115.00</del> 166.00
19	Petition for change of name	<del>115.00</del> 166.00
20	Filing a process server application	<del>115.00</del> 166.00
21 B	Subsequent case filing fee	
22	Filing answer or initial appearance	\$ <del>61.00</del> 88.00
23	Additional defendants	<del>61.00</del> 88.00
24	Notice of appeal to appellate courts	
25	(except under section 12-2107)	<del>61.00</del> 88.00
26	Cross-appeal by appellee	
27	(except under section 12-2107)	<del>61.00</del> 88.00
28	Ownership of real property becomes	
29	an issue defendant	<del>61.00</del> 88.00
30	Jurisdiction exceeded appellee	
31	(within 20 days of filing)	<del>61.00</del> 88.00
32	Response to show cause that does one or more	
33	of the following:	
34	1. Requests affirmative relief or	
35	counterrelief	
36	2. Attacks the sufficiency of process	
37	or the proceedings	
38	3. Takes other affirmative action	<del>61.00</del> 88.00
39 C	Initial case filing fee	
40	Filing petition for annulment	\$ <del>91.00</del> 131.00
41	Filing for dissolution/legal separation petition	<del>91.00</del> 131.00
42	Petition in formal testacy or appointment	
43	proceeding	<del>91.00</del> 131.00

1	Application for informal probate or informal		
2	appointment	<del>91.00</del>	131.00
3	Petition for supervised administration petition		
4	to appoint guardian	<del>91.00</del>	131.00
5	Petition to appoint conservator or make other		
6	protective order	<del>91.00</del>	131.00
7	Opposing petition in testacy or appointment		
8	proceedings or appointment of guardian or		
9	conservator	<del>91.00</del>	131.00
10	Single estate application or petition under		
11	title 14, chapter 3, section 14-3938	<del>91.00</del>	131.00
12	Domestic relations case for which a fee is		
13	not specifically prescribed	<del>91.00</del>	131.00
14	D Subsequent case filing fee		
15	Filing answer to annulment	\$ <del>46.00</del>	66.00
16	Filing for dissolution/legal separation answer	<del>46.00</del>	66.00
17	Any person opposing contested petition if no		
18	prior payment made	<del>46.00</del>	66.00
19	Postadjudication petitions in		
20	domestic relations cases	<del>46.00</del>	66.00
21	Postjudgment activities in probate cases	<del>46.00</del>	66.00
22	E Minimum clerk fee		
23	Filing power of attorney	\$ <del>18.00</del>	26.00
24	Change of venue to another county		
25	transmittal fee	<del>18.00</del>	26.00
26	Change of venue to another county pursuant		
27	to section 12-404 transmittal fee	<del>18.00</del>	26.00
28	Filing transcript and docketing judgment		
29	from any courts	<del>18.00</del>	26.00
30	Issuance of writs of: attachment, execution,		
31	possession, restitution, prohibition and		
32	enforcement of order of judgment-garnishment	<del>18.00</del>	26.00
33	Certified copy or abstract of marriage		
34	application or license	<del>18.00</del>	26.00
35	Filing oath and bond of notary public	<del>18.00</del>	26.00
36	Certificate of correctness of copy of record	<del>18.00</del>	26.00
37	Justice of peace certificate	<del>18.00</del>	26.00
38	Notary public certificate	<del>18.00</del>	26.00
39	Each certificate of clerk to any matter in		
40	clerk's record not specifically provided	<del>18.00</del>	26.00
41	Filing any paper or performing any act for		
42	which a fee is not specifically prescribed	<del>18.00</del>	26.00
43	Subpoena - (civil)	<del>18.00</del>	26.00

1	Research in locating a document (per year or	
2	source researched)	<del>18.00</del> 26.00
3	Exemplification (per certification)	<del>18.00</del> 26.00
4	Authentication (per certification)	<del>18.00</del> 26.00
5	Seal a court file	<del>18.00</del> 26.00
6	Reopen a sealed court file	<del>18.00</del> 26.00
7	Retrieve bank records	<del>18.00</del> 26.00
8	Reel of film alpha index per year	
9	(plus per page fee below)	<del>18.00</del> 26.00
10	Payment history report	<del>18.00</del> 26.00
11	Certification under one document certification	<del>18.00</del> 26.00
12	Civil traffic appeal	<del>18.00</del> 26.00
13	F Per page fee	
14	Making copies (on appeal and on request)	
15	per page	\$ .50
16	Making extra copies per page	.50
17	Making photographic or photostatic copies	
18	per page	.50
19	Comparison fee of papers furnished by	
20	applicant per page	.50
21	Alpha index per page	.50
22	G Special fees	
23	Small claim tax case	\$ <del>15.00</del> 22.00
24	Marriage license and return of a	
25	marriage license	<del>50.00</del> 72.00
26	Postage and handling	<del>5.00</del> 7.00
27	Notary services	<del>5.00</del> 7.00
28	Stop payment on check	<del>10.00</del> 14.00
29	B. The clerk of the superior court shall receive the fees prescribed	
30	in subsection A of this section for the following services:	
31	1. Making copies of papers and records required to be made by the	
32	clerk on appeal, and copies of papers and records in the clerk's office made	
33	on request in other cases, for each legal size page of original.	
34	2. Making extra copies of the papers and records mentioned in	
35	paragraph 1 of this subsection, required or requested for each page of copy	
36	of such papers and records.	
37	3. In a clerk's office, in which a photographic or photostatic method	
38	of recording is used or is available for use in cooperation with other public	
39	offices, preparing copies enumerated in paragraphs 1 and 2 of this subsection	
40	for each page of copy or fraction of a page of copy. Portions of several	
41	pages of records may be combined in one page of copy. The clerk may prepare	
42	an abstract of marriage in lieu of a reproduction of the recorded marriage	
43	license. The fee shall apply to matters whether recorded in such office by	
44	longhand, typing, electronic, photographic or photostatic methods. The fees	
45	for copies are exclusive of the fees for certification or authentication.	

1           4. Issuing a certificate as to official capacity of a notary public or  
2 justice of the peace and affixing a seal to the certificate.

3           5. Each subpoena issued in a civil proceeding or filing any paper or  
4 performing any act for which a fee is not specifically prescribed by law, but  
5 the clerk shall not charge for the clerk's services in administering the oath  
6 in connection with any affidavit, petition, letters or other pleading or  
7 document which, after administration of the oath therefor, is promptly filed  
8 by the clerk and becomes a part of a case or matter of record in the office  
9 of the clerk.

10          C. In addition to the fees required by subsection A of this section,  
11 the clerk shall charge and collect a surcharge of fifteen dollars for each  
12 filing of a postadjudication petition in a domestic relations case for which  
13 a fee presently is charged under class D in subsection A of this section.  
14 The surcharge shall be used exclusively to fund domestic relations education  
15 and mediation programs established pursuant to section 25-413. Each month  
16 the clerk shall transmit the monies the clerk collects pursuant to this  
17 subsection to the county treasurer for deposit in the domestic relations  
18 education and mediation fund established by section 25-413.

19          D. Excluding the monies that are collected pursuant to subsection C of  
20 this section, each month the clerk shall transmit seventy-five per cent of  
21 the monies collected for subsequent case filing fees for postadjudication  
22 petitions in domestic relations cases under class D in subsection A of this  
23 section to the county treasurer for deposit in the expedited child support  
24 and parenting time fund established pursuant to section 25-412. The  
25 remaining twenty-five per cent of the monies collected pursuant to this  
26 subsection shall be distributed pursuant to section 12-284.03.

27          E. At the commencement of each action for annulment, dissolution of  
28 marriage, legal separation, maternity or paternity, the petitioner shall pay  
29 to the clerk of the court the initial case filing fee for the action provided  
30 in subsection A of this section. At the time of filing a response, the  
31 respondent shall pay to the clerk of the court the subsequent case filing fee  
32 for the action provided in subsection A of this section. In each county  
33 where the superior court has established a conciliation court, the petitioner  
34 and respondent shall each pay to the clerk a sixty-five dollar fee. The  
35 monies from the additional fee shall be used to carry out the purposes of the  
36 conciliation court pursuant to title 25, chapter 3, article 7.

37          F. In garnishment matters:

38           1. A fee shall not be charged for filing an affidavit seeking only the  
39 release of exempt wages.

40           2. A fee shall not be charged for filing a garnishee's answer, for  
41 filing a judgment against the garnishee or for the issuance or return of  
42 process incident to such a judgment.

3. For any contest relating to or any controversion of a garnishment matter, unless the contesting party has paid an appearance fee in that cause, the required appearance fee shall be paid, except that the garnishee shall not pay a clerk's fee.

G. A person who is cited to appear and defend an order to show cause shall not be charged an appearance fee. The person may stipulate to or consent to the entry of an order without the payment of an appearance fee. An appearance fee shall be paid if the person is present in person or by an attorney and does one or more of the following:

1. Requests affirmative relief or counterrelief.
2. Attacks the sufficiency of process or the proceedings.
3. Takes other affirmative action.

H. A petitioner shall not be charged a fee for requesting an order of protection pursuant to section 13-3602 or an injunction against harassment pursuant to section 12-1809. A defendant shall not be charged an answer fee in an order of protection action if the defendant requests a hearing pursuant to section 13-3602, subsection I or in an injunction against harassment action if the defendant requests a hearing pursuant to section 12-1809, subsection H.

I. A person who files a registrar's order pursuant to section 32-1166.06 shall not be charged a fee.

J. The clerk of the court shall charge and collect a forty-six dollar filing fee for a petition for emancipation of a minor filed pursuant to chapter 15 of this title. Each month the clerk shall transmit the monies the clerk collects pursuant to this subsection to the county treasurer for deposit in the emancipation administrative costs fund established by section 12-2456.

K. Except for monies that are collected pursuant to subsections C, D, E and J of this section, the clerk of the superior court shall transmit monthly to the county treasurer all monies collected pursuant to this section for distribution or deposit pursuant to section 12-284.03.

L. THE SUPREME COURT MAY INCREASE THE FEES PRESCRIBED IN SUBSECTION A OF THIS SECTION IN AN AMOUNT NOT TO EXCEED THE PER CENT OF CHANGE IN THE AVERAGE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS BETWEEN THAT FIGURE FOR THE LATEST CALENDAR YEAR AND THE CALENDAR YEAR IN WHICH THE LAST FEE INCREASE OCCURRED.

Sec. 2. Section 22-281, Arizona Revised Statutes, is amended to read:  
22-281. Fees and deposits

A. Justices of the peace shall receive fees established and classified as follows in civil actions:

Class	Description	Fee
A	Initial case filing fee	
	Civil filing fees	\$ <del>45.00</del> 65.00

1	B	Subsequent case filing fee	
2		Civil filing fees - defendant	\$ <del>24.00</del> 35.00
3	C	Initial case filing fee	
4		Forcible entry and detainer filings	\$ <del>21.00</del> 30.00
5		Small claims filing	<del>16.00</del> 23.00
6	D	Subsequent case filing fee	
7		Small claims answer	\$ <del>9.00</del> 13.00
8		Forcible entry and detainer	
9		filings - defendant	<del>11.00</del> 16.00
10	E	Minimum clerk fee	
11		Document and transcript transfer on appeal	\$ <del>17.00</del> 24.00
12		Certification of any documents	<del>17.00</del> 24.00
13		Issuance of writs	<del>17.00</del> 24.00
14		Filing any paper or performing any act for	
15		which a fee is not specifically prescribed	<del>17.00</del> 24.00
16		Subpoena (civil)	<del>17.00</del> 24.00
17		Research in locating a document	<del>17.00</del> 24.00
18		Seal a court file	<del>17.00</del> 24.00
19		Reopen a sealed court file	<del>17.00</del> 24.00
20		Record duplication	<del>17.00</del> 24.00
21	F	Per page fee	
22		Copies of any documents per page	\$ 0.50
23	G	Special fees	
24		Small claims service by mail	\$ 8.00

25 B. This section does not deprive the parties to the action of the  
 26 privilege of depositing amounts with the justice, in addition to those set  
 27 forth in this section, for use in connection with the payment of constable's  
 28 and sheriff's fees for service of process, levying of writs and other  
 29 services for which fees are otherwise provided by law.

30 C. Excluding the monies that are kept by the court pursuant to  
 31 subsection D of this section, justices of the peace shall transmit monthly to  
 32 the county treasurer all monies collected pursuant to subsection A of this  
 33 section. The county treasurer shall distribute or deposit all of the monies  
 34 received pursuant to this subsection as follows:

35 1. 18.39 per cent to the state treasurer for deposit in the judicial  
 36 collection enhancement fund established by section 12-113.

37 2. 2.42 per cent to the state treasurer for deposit in the alternative  
 38 dispute resolution fund established by section 12-135.

39 3. TO THE ELECTED OFFICIALS' RETIREMENT PLAN FUND ESTABLISHED BY  
 40 SECTION 38-802, EITHER OF THE FOLLOWING PERCENTAGES, WHICH SHALL BE  
 41 DISTRIBUTED TO THE FUND PURSUANT TO SECTION 38-810:

42 (a) 23.79 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH  
 43 A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 15.30 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

~~3. 4. 71.15 per cent~~ To the county general fund~~—~~, IN THE FOLLOWING PERCENTAGES:

(a) 47.36 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND PERSONS.

(b) 55.85 PER CENT IF THE COUNTY TREASURER IS SERVING IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND PERSONS OR LESS.

D. 8.04 per cent of the monies transmitted pursuant to subsection C of this section shall be kept and used by the court collecting the fees in the same manner as the seven dollars of the time payment fee prescribed by section 12-116, subsection B.

E. THE SUPREME COURT MAY INCREASE THE FEES PRESCRIBED IN SUBSECTION A OF THIS SECTION IN AN AMOUNT NOT TO EXCEED THE PER CENT OF CHANGE IN THE AVERAGE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS BETWEEN THAT FIGURE FOR THE LATEST CALENDAR YEAR AND THE CALENDAR YEAR IN WHICH THE LAST FEE INCREASE OCCURRED.

Sec. 3. Section 38-810, Arizona Revised Statutes, is amended to read:

38-810. Contributions

A. Each member shall contribute to the fund an amount equal to seven per cent of the member's gross salary. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for the member's services rendered during the period covered by the payment, except with respect to the benefits provided under the plan.

B. The fund manager's office shall be credited monthly with monies collected pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31, subsection D, paragraph 2, ~~and~~ section 12-284.03, subsection A, paragraph 6 ~~AND SECTION 22-281, SUBSECTION C, PARAGRAPH 3~~. The monies credited to the fund pursuant to this subsection shall be deposited in the fund on a monthly basis, and there shall be a complete accounting of the determination of these monies deposited in the fund.

C. As determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the fund manager taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007 ~~and each year thereafter~~, the employer contribution rate shall not be less than ten per cent of salary. The monies deposited in the fund pursuant to subsection B of this section shall be used to reduce the contributions required of state and county employers only.



1 Employers that entered the system under a joinder agreement shall also  
2 contribute an amount equal to the unfunded accrued liability for that  
3 employer. The unfunded liability for each new employer shall be actuarially  
4 determined by the plan's actuary as of the effective date of participation of  
5 each employer and shall be payable on the effective date of participation.  
6 The minimum employer contribution that is paid and that is in excess of the  
7 normal cost plus the actuarially determined amount required to amortize the  
8 unfunded accrued liability as calculated pursuant to this subsection shall be  
9 used to reduce future employer contribution increases and shall not be used  
10 to pay for an increase in benefits that are otherwise payable to members.  
11 The fund manager shall separately account for these monies in the fund.  
12 After the close of any fiscal year, if the plan's actuary determines that the  
13 actuarial valuation of the fund contains excess valuation assets and is more  
14 than one hundred per cent funded, the fund manager shall account for fifty  
15 per cent of the excess valuation assets in a stabilization reserve account.  
16 After the close of any fiscal year, if the plan's actuary determines that the  
17 actuarial valuation of the fund has a valuation asset deficiency and an  
18 unfunded actuarial accrued liability, the fund manager shall use any  
19 valuation assets in the stabilization reserve account, to the extent  
20 available, to limit the decline in the fund's funding ratio to not more than  
21 two per cent.

22 D. The department of administration and the treasurer of each county  
23 and participating city and town shall transfer to the fund manager the  
24 contributions provided for in subsections A and C of this section within ten  
25 working days after each payroll date. The state, county treasurers and  
26 clerks of the superior court shall transfer the monies credited under  
27 subsection B of this section to the fund manager on or before the fifteenth  
28 day of each calendar month that follows the month in which the court fees  
29 were collected. Contributions and monies credited under subsection B of this  
30 section and transferred after these dates shall include a penalty equal to  
31 ten per cent ~~per annum~~ A YEAR, compounded annually, for each day that the  
32 contributions or monies credited under subsection B of this section are late.  
33 Delinquent payments due under this subsection, together with interest charges  
34 as provided in this subsection and court costs, may be recovered by action in  
35 a court of competent jurisdiction against the person or persons responsible  
36 for the payments or, at the request of the fund manager, may be deducted from  
37 any other monies including excise revenue taxes payable to a political  
38 subdivision by any department or agency of this state. If requested by the  
39 fund manager, the state, county treasurers or clerks of the superior court  
40 shall transfer the monies credited under subsection B of this section, in an  
41 amount determined by the fund manager, directly to the qualified governmental  
42 excess benefit arrangement established pursuant to section 38-803.01.

1           E. The employer shall pay the member contributions required of members  
2 on account of compensation earned after August 7, 1985. The paid  
3 contributions shall be treated as employer contributions for the purpose of  
4 determining tax treatment under the United States internal revenue code. The  
5 effective date of the employer payment shall not be before the date the  
6 retirement plan has received notification from the United States internal  
7 revenue service that pursuant to section 414(h) of the United States internal  
8 revenue code the member contributions paid will not be included in gross  
9 income for income tax purposes until the paid contributions are distributed  
10 by refund or pension payments. The employer shall pay the member  
11 contributions from monies established and available in the retirement  
12 deduction account, which monies would otherwise have been designated as  
13 member contributions and paid to the retirement plan. Member contributions  
14 paid pursuant to this subsection shall be treated for all other purposes, in  
15 the same manner and to the same extent, as member contributions made before  
16 August 7, 1985.